United Nations A/HRC/35/25/Add.1

General Assembly

Distr.: General
25 April 2017

Original: English

Human Rights Council
Thirty-fifth session
6-23 June 2017
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of migrants on his mission to Angola

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the human rights of migrants, François Crépeau, on his mission to Angola from 3 to 10 May 2016. He held consultations with officials of the Government of Angola, migrants, civil society organizations and international organizations.

The Special Rapporteur recommends that Angola develop a comprehensive national migration and mobility strategy and bilateral and multilateral mobility agreements with neighbouring countries in order to protect and promote the human rights of all migrants in the country.

GE.17-06591(E)
1706591

Please recycle

Report of the Special Rapporteur on the human rights of migrants on his mission to Angola*

Contents

		Page
I.	Introduction	3
II.	General background on Angola and migration: a brief overview	3
III.	Normative and institutional framework on migration and border management	4
	A. International legal framework	4
	B. Regional framework and institutions	5
	C. Trade and mobility agreements	6
	D. National legal, institutional and policy framework	7
IV.	Border management	9
	A. An unnecessarily harsh asylum policy	9
	B. Documentation and birth registration	10
	C. Intimidation or harassment by law enforcement officials	11
	D. Collective expulsions	11
	E. Bilateral agreements	12
V.	Detention	12
VI.	Cross-cutting concerns	13
	A. Labour exploitation	13
	B. Xenophobic and discriminatory acts	13
	C. Access to justice	13
VII.	Conclusions and recommendations	14
	A. Normative and institutional framework for the protection of the human rights of migrants	14
	B. Border management	15
	C. Detention	16
	D. Access to justice	16
	E. Cross-cutting concerns	17

* Circulated in the language of submission only.

I. Introduction

1. The Special Rapporteur on the human rights of migrants, François Crépeau, conducted an official visit to Angola from 3 to 10 May 2016. The visit was undertaken to assess the migration laws, policies, programmes and practices developed by the Angola authorities in recent years. Furthermore, he was particularly interested in learning how Angola implements the mobility provisions contained in its multilateral and bilateral trade agreements, as his thematic report to the Human Rights Council (A/HRC/32/40) specifically addressed the topic of bilateral and multilateral trade agreements and the mobility agreements provided therein.

2. During his eight-day visit to Angola, the Special Rapporteur met with a range of government officials, representatives of civil society and international organizations and migrants themselves to discuss migration governance in Angola.

3. The Special Rapporteur held meetings in Luanda, Cabinda and Lunda Norte and visited detention centres in each province.

4. The Special Rapporteur expresses his appreciation to the Government of Angola for the support provided throughout the visit.

II. General background on Angola and migration: a brief overview

5. Angola sits on the west coast of south-central Africa. Its history and economic outlook are largely shaped by a 14-year war for independence from Portugal, which it achieved on 11 November 1974, followed by an intermittent 27-year civil war in which the country experienced mass migration and forced internal displacement until 2002.

6. Angola receives a very high number of irregular migrants and asylum seekers from West Africa in general and the Democratic Republic of the Congo in particular, drawn by natural resources, economic growth, political stability and porous borders. The migration population in Angola has more than doubled since 2000. A presumably high percentage of those migrants are attracted to work in informal artisanal diamond mining in border provinces, mainly in Lunda Norte, Lunda Sul and Zaire. Historically, there has always been a considerable amount of contact and cross-border activity between Angola and the Democratic Republic of the Congo due to the long and porous border between the two countries, some of which is in diamond exploration areas.

7. The most recent figures from the United Nations on the number of recorded migrants indicate that Angola has 33,517 international migrants. That figure includes estimates of the foreign-born population and the number of refugees, as reported by the Office of the United Nations High Commissioner for Refugees (UNHCR), which were added to the estimate of international migrants in Angola. The majority of international migrants come from the Democratic Republic of the Congo (12,178), Portugal (5,298), Cape Verde (3,569), Sao Tome and Principe (3,112) and South Africa (2,437).[1] The Special Rapporteur observes that that figure does not include asylum seekers and irregular migrants who are currently present in Angola. In April 2017, the Government of Angola provided updated figures indicating that there 200,000 foreigners in Angola, most of whom are Chinese or Portuguese. Of that number, 30,143 are asylum seekers of various nationalities, mostly from Guinea. There are currently 16,190 refugees.

8. The Special Rapporteur received information indicating that irregular migration is considered a serious threat to national security and the economy, especially in the diamond areas. The Government of Angola is therefore increasing its efforts to improve border control along the extremely long and porous borders. That is reflected in public statements

[1] See United Nations, Department of Economic and Social Affairs (2015), "Trends in international migrant stock: migrants by destination and origin" (POP/DB/MIG/Stock/Rev.2015). Available from www.un.org/en/development/desa/population/migration/data/estimates2/estimates15.shtml.

and in the media, which influences citizens' perception of migration. That all has a negative effect on the authorities' response to the phenomenon, as aggressive rhetoric promotes heavy-handed security enforcement and dehumanizes migrants.

9. In recent years, mass expulsions have been accompanied by allegations of human rights violations by Angolan security forces against migrants expelled from Angola, the majority of whom were Congolese. The Special Rapporteur received reports that often, the situations of people in need of international protection were not taken into account during collective expulsions. Allegations of human rights violations, including sexual abuse and sexual exploitation, were also reported.

10. Moreover, the challenges associated with migration management in Angola are particularly important in the diamond-mining areas bordering the Democratic Republic of the Congo. Information received from the Government indicates that such challenges are also experienced in other border areas, such as Santa Clara (between the province of Cunene and Namibia), Cabinda, an Angolan enclave bordered on all sides by the Congo, and in Moxico, on the border with Zambia. In recent years, clandestine migration has also developed using small boats from the west coast of Africa and the Gulf of Guinea to cross the Atlantic Ocean.

11. Excessive bureaucracy and petty corruption have disproportionate effects on human rights protection, as they limit the access of irregular migrants to social services such as education, health care and justice, for fear of detection, detention, extortion and deportation. The Special Rapporteur was informed that they also discourage migrants from attempting to enter the country regularly or trying to regularize their migration status once they are in Angola.

12. The Special Rapporteur observed that the immigration rules are not well known by law enforcement officials and, when they are, their implementation is hampered by the lack of proper institutional structures and by corruption. The overly stringent immigration rules often make being undocumented the only option for many migrants. Still, migrants continue to go to Angola to work, often in the construction and mining industries, and set up businesses, all of which contribute significantly to the economy. However, their status is rarely regularized and they face exploitative conditions of work.

III. Normative and institutional framework on migration and border management

A. International legal framework

13. Angola has ratified five of the nine core international human treaties.[1] It has not signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

14. Angola has made several reservations to the 1951 Convention relating to the Status of Refugees, the most significant of which were to articles 17, on the right to work, and 26, on freedom of movement.[2]

[1] It has ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

[2] The text of the reservation to article 17 reads: "The Government of the People's Republic of Angola accepts the obligations set forth in article 17, provided that: (a) Paragraph 1 of this article shall not be interpreted to mean that refugees must enjoy the same privileges as may be accorded to nationals of countries with which the People's Republic of Angola has signed special co-operation agreements. (b) Paragraph 2 of this article shall be construed as a recommendation and not as an obligation." The text of the reservation to article 26 reads: "The Government of the People's Republic of Angola reserves the right to prescribe, transfer or circumscribe the place of residence of certain refugees or

15. Angola has not signed the International Labour Organization (ILO) Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) or the Domestic Workers Convention, 2011 (No. 189).

B. Regional framework and institutions

16. Angola acceded to the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa in 1981. It acceded to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention) in 2013.

17. Angola is a party to the African Charter on Human and Peoples' Rights. In November 2007, the African Commission on Human and Peoples' Rights adopted resolution 114 on migration and human rights,[8] which recommends that member States:

(a) Recognize the importance of the human rights of all migrants, including refugees and internally displaced persons, and ensure that national legislation relating to migration issues is consistent with and does not conflict with international human rights standards and conventions;

(b) That have not done so ratify and implement the main regional and international instruments relating to migrants and refugees, in particular the Convention relating to the Status of Refugees, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the African Union Convention Governing the Specific Aspects of Refugee Problems in Africa; implement the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto, which provides for the submission of individual communications, in order to respect the rights of migrant women;

(c) Respect the customary international law principle of non-refoulement; make legal requirements for entering a territory more flexible, in order to take into account the needs of asylum seekers; revoke the notion of "safe third country"; strengthen institutional structures for addressing and managing individual asylum requests; respect the right of asylum seekers to contest rulings on asylum status; and improve the reception structures and processes for refugees seeking asylum.

African Commission on Human and Peoples' Rights

18. In 2008, the issue of mass expulsions of foreigners was addressed by the African Commission on Human and Peoples' Rights in the *Institute for Human Rights and Development in Africa v. Angola* case. While the case was brought by 14 Gambian citizens, the Commission made some important general observations about the human rights implications of the mass expulsion of foreigners from Angola, and noted that the majority of those affected were from the Democratic Republic of the Congo.[9] In examining the case, the Commission found that Angola was in breach of article 12 (5) of the African Charter on Human and Peoples' Rights, which prohibits mass expulsions. Moreover, the Commission held that the Government of Angola had also violated the principle of non-discrimination (art. 2) as the expulsions were carried out in a way that targeted foreign nationals. Furthermore, the Commission found Angola to be in breach of a number of provisions regarding due process of law, including articles 6, 7 (1) (a) and 12 (4), as the migrants

---

groups of refugees, and to restrict their freedom of movement, whenever considerations of national or international order make it advisable to do so." Available from https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&lang=en#EndDec.

[8] See www.achpr.org/sessions/42nd/resolutions/114/.

[9] *Institute for Human Rights and Development in Africa v. Angola* (2008) AHRLR 43 (ACHPR 2008). Available from www.ihrda.org.za/entries/jbg/resource/by-country-angola/198-angola-institute-for-human-rights-and-development-in-africa-v-angola-2008-ahrlr-achpr-2008.html, para. 67.

concerned were arbitrarily arrested, not afforded a right of appeal and were expelled from Angola in violation of the principle that deportation may only occur by virtue of a decision taken in accordance with the law. The Commission also found that the conditions of detention and the mistreatment by guards were in breach of article 5 of the African Charter, which protects the dignity of the person, and prohibits torture and cruel, inhuman and degrading punishment. One of the recommendations of the Commission was that Angola establish a commission of inquiry to investigate the circumstances under which the victims were expelled and ensure payment of adequate compensation to all those whose rights were violated in the process.[6]

19. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) was ratified by Angola on 30 August 2007. Article 10 (2) (b) requires that the local, national, regional, continental and international decision-making structures ensure the physical, psychological, social and legal protection of asylum seekers, refugees, returnees and displaced persons, particularly women.

C. Trade and mobility agreements

1. Multilateral agreements

20. Angola joined the World Trade Organization (WTO) in November 1996 and grants most-favoured-nation treatment to all its trading partners. Angola has undertaken General Agreement on Trade in Services commitments in banking, tourism and recreational, cultural and sporting services. While actively participating in the Trade Facilitation Agreement negotiations, Angola has not yet ratified the Agreement.[7] Under the Global System of Trade Preferences among Developing Countries, Angola has conducted negotiations with Mozambique and Cuba.

2. Regional agreements

Community of Portuguese-speaking Countries (Comunidade dos Países de Língua Portuguesa)

21. The Community of Portuguese-speaking Countries is a multilateral organization founded in 1996, which consists of nine member States: Angola, Brazil, Cabo Verde, Equatorial Guinea, Guinea-Bissau, Mozambique, Portugal, Sao Tome and Principe and Timor-Leste. Initially, the community focused on deepening cultural engagement between member States, but it has since expanded to become a geopolitical and economic community, as it represents the fourth largest oil-producing region in the world.[8] In 2013, consensus was achieved among all the member States on the free movement of goods and people.[9] However, the community has to coordinate between existing cooperation agreements with the Southern African Development Community, the European Union and other regional blocs. In February 2016, it appeared that plans were under way for the administrative facilitation of movement, focused upon businesspersons and students.[10]

---

[6] Ibid., para. 87.

[7] Adopted by the WTO General Council in 2014, the Trade Facilitation Agreement integrates good trade practices from around the world towards moving goods expeditiously across borders. The Agreement marked the first time in WTO history that trade commitments for least developed and developing countries were linked to States' capacity to implement those commitments.

[8] Rita Himmel, DW,"CPLP é o quarto maior produtor de petróleo do mundo", 22 July 2014. Available from www.dw.com/pt/cplp-%C3%A9-o-quarto-maior-produtor-de-petr%C3%B3leo-do-mundo/a-17798873.

[9] Macauhub, "Movement of people and goods in CPLP 'has consensus' of all member countries", 18 July 2013. Available from https://macauhub.com.mo/2013/07/18/movement-of-people-and-goods-in-cplp-has-consensus-of-all-member-countries/.

[10] Adrian Frey, "CPLP visas: Portugal pushes for administrative facilitation to ease doing business", 24 February 2016. Available from http://clubofmozambique.com/news/cplp-portugal-expects-administrative-easing-of-visas/.

Economic Community of Central African States

22. The Economic Community of Central African States (ECCAS) entered into force in 1985 and Angola formally joined the group in 1999. The current members of ECCAS are Angola, Burundi, Cameroon, the Central African Republic, Chad, the Congo, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, Rwanda and Sao Tome and Principe.

23. Mobility in ECCAS is governed by the Protocol on Freedom of Movement and Rights of Establishment of Nationals of Members States (annex 7 to the original treaty), which details ECCAS citizens' rights relating to the freedom of movement, residence and establishment.[11] Nationals of ECCAS member States have the right to enter the territory of other member States providing they possess an identity card or passport for their State of origin and a visa. Under the treaty terms, ECCAS nationals also have the right to reside within the territory of another member State, providing they possess a sojourn card. The treaty and the protocol also allow for the mobility of workers and the establishment of self-employed persons, although limitations exist under the national legislation and the regulations of each member State.

24. While the arrangements for the free mobility of ECCAS citizens and the right of establishment were to be implemented within 4 to 12 years of the treaty's entry into force, discussions relating to free mobility are still ongoing as the issue has not been considered a priority among ECCAS member States. Additionally, neither the treaty nor the protocol contain specific mobility provisions relating to non-citizens. However, mobility provisions for non-citizens may be found within certain bilateral free movement agreements between ECCAS member States and third States.

3. Bilateral agreements between Angola and other countries involving mobility

25. Angola has signed trade agreements with Benin (2012), the Central African Republic (2010), Equatorial Guinea (2007), the Philippines (2013), South Africa (2009), Turkey (2009) and the United States of America (2009). It had bilateral agreements with 38 other countries, one of which is the economic partnership with Namibia into which it entered in 2009, allowing for the free movement of people between the two countries.

D. National legal, institutional and policy framework

1. Legal framework

Constitution

26. The Constitution of the Republic of Angola of 2010 guarantees all fundamental freedoms and rights, enshrines the principle of equality and discrimination, and contains fundamental rights by reference to the Universal Declaration of Human Rights, the African Charter of Human and Peoples' Rights and international treaties ratified by Angola.

27. Article 71 of the Angolan Constitution provides for the right to obtain asylum against political persecution.

Legislation

28. Law No. 6 (1986)[12] approves the statute of the resident foreign worker. The law applies to foreign workers resident in Angola and hired there. Its provisions are not applicable to those recruited abroad or to foreign workers who lack professional qualifications and technical or scientific qualifications. It establishes equality of treatment between foreign workers and Angolans in health care, security against accidents at work and retirement pensions, as well as for the fixing of wages and the payment of income tax.

[11] See www.ceeac-eccas.org/images/traites/trt_eccas.pdf.

[12] See www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=2114&p_country=AGO&p_count=196&p_classification=17&p_classcount=8.

29. Presidential Decree No. 11 (1986)[13] approves the regulations for the recruitment of resident foreign workers, as well as the model contract.

30. Presidential Decree No. 5/95 (1995)[14] focuses on the employment of non-resident foreign workers. Its purpose is to regulate the employment of the non-resident foreign labour force as well as the qualified national labour force working for foreign companies and other employing entities that perform their activities in the territory of Angola. The law has since been revoked and replaced by Presidential Decree No. 43/17 of 6 March 2017, which introduced a strict maximum quota of 30 per cent of foreign employees, although the minimum number of five national employees to enable the hiring of foreign citizens was eliminated.

31. Presidential Decree No. 108/11 of 25 May 2011 sets out the mandate of the Migration and Foreigners Service and the laws governing the entry and exit of foreigners from the national territory, as well as the documents necessary to obtain, extend and process diplomatic, official, courtesy, consular and territorial visas.

32. Law No. 02/07 on the Legal Regime of Foreign Citizens (Lei sobre o Regime Jurídico dos Estrangeiros na República de Angola) entered into force on 31 August 2007 and guarantees foreign nationals in Angola the same rights and duties enjoyed by Angolan citizens, with the exception of some specific rights, such as political rights and the exercise of public functions or the leadership of trade unions or professional associations. The law allows for expulsions of foreign citizens without prejudice to agreements or international conventions to which Angola is a party. Presidential Decree No. 108/11 of 25 May 2011 regulates the implementation of Law No. 02/07.

33. Article 29 (4) of the Law on the Legal Regime of Foreign Citizens provides safeguards against the expulsion of refugees to countries where they might be persecuted for political, racial or religious reasons, or where their lives might be in danger. Article 29 (3) guarantees refugees the most favourable treatment under the law or international agreements to which Angola is party.

34. Through its reservation to article 26 of the 1951 Convention relating to the Status of Refugees, Angola reserves the right to prescribe, transfer or circumscribe the place of residence of certain refugees or groups of refugees, and to restrict their freedom of movement, whenever considerations of national or international order make it advisable to do so. The limitation on freedom of movement for security reasons is also enshrined in article 5 of the Law on the Legal Regime of Foreign Citizens and requires them to obtain a permit in order to move to restricted areas.

35. Regulation No. 273/13 on the granting and use of the business licence (alvará commercial) prohibits refugees from owning or operating a business,[15] even when they fulfil all of the requirements and despite the fact that other foreigners do not face the same restrictions. The business licence is a prerequisite to owning and operating a business in Angola.

36. The Law on Refugee Status (No. 10/2015) further curtails the freedom of movement for asylum seekers. It moves the administration of the asylum process to the Ministry of the Interior. It prohibits the expulsion of refugees and asylum seekers from Angola, except for reasons of national security or public order, for having committed fraud resulting in the recognition of refugee status or for having committed an excludable act. It states that asylum seekers and vulnerable refugees must reside in a reception centre (centro de acolhimento de refugiados e requerentes de asilo), unless they can demonstrate that they are

[13] See www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=2779&p_country=AGO&p_count=196&p_classification=17&p_classcount=8.

[14] See www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=56291&p_country=AGO&p_count=196&p_classification=17&p_classcount=8.

[15] Art. 4 (4) of Regulation No. 273/13 prohibits the granting of a business licence to individuals who have refugee or asylum status ("É vedada a concessão de Alvará Comercial a cidadãos titulares do estatuto de refugiado ou exilado, nos termos da legislação em vigor na República de Angola").

able to cater for their own needs. It prohibits asylum seekers from carrying out wage-earning employment.

2. Relevant government agencies

37. The Ministry of the Interior is the body of the central State administration that generally promotes, according to governmental guidelines, the formulation, coordination and implementation of law, order and internal security: it controls the entry, stay, exit and residence of foreigners, the implementation of custodial measures, and the guarantee of the exercise of fundamental rights and freedoms. The Ministry of the Interior includes civilian and military personnel.

38. The Migration and Foreigners Service is based in the Ministry of the Interior and is responsible for promoting and coordinating the implementation of measures and actions inherent in the transit, entry, stay, residence and exit of people across land borders, sea, air and waterways throughout the country. The Migration and Foreigners Service is also responsible for receiving asylum requests and conducting confidential interviews with applicants. Following the initial procedure, asylum claims are sent to the National Council for Refugees, an interministerial committee responsible for assessing asylum cases and conducting refugee status determination. However, almost one year after the adoption of the new Law on Refugee Status, the National Council for Refugees has yet to be established and refugee status determination has been suspended. In addition, from the wording of article 3 (g) of the Law on Refugee Status, it is unclear whether UNHCR will maintain its observer role once the Council has been created.

39. The Constitution of Angola 2010 (art. 192 (71)-(74)) provides that the Ombudsman (Provedor de Justiça) be appointed by a two-thirds majority of the National Assembly and be sworn in by the president of the National Assembly. The Ombudsman is appointed for a four-year term and may be reappointed for another four years. The position and Office of the Ombudsman were established in 2005, following the adoption by the National Assembly of the Statute of the Judicial Ombudsman and the Organic Law establishing the Office of the Ombudsman.

40. The Ombudsman cannot take matters directly to court and can address some issues only with the President's approval. The Office is authorized to respond only to officially submitted complaints, except in cases of flagrant human rights violations, in which case no official complaint is required. The Ombudsman has the authority to make recommendations and suggest corrective measures, but he does not have the power to annul, revoke or modify the powers of any public entity. In 2005, the National Assembly appointed the first Ombudsman, Paul Tjipilika, a former Minister of Justice. He enjoys the status of a government minister. The Ombudsman's reports are presented to the parliament.

IV. Border management

A. An unnecessarily harsh asylum policy

41. Since the promulgation of the new Asylum Law No. 10/15 of June 2015, the previous system for refugee status determination has been discontinued. The regulation necessary for the establishment of a new refugee status determination system has yet to be adopted. The resulting legal gap has existed since June 2015 and is extremely prejudicial to asylum seekers, who are provided with no alternative status and no documentation. That should be urgently remedied. The Special Rapporteur was informed by the Government that the main reason for that legal gap is financial constraints; it is urgently looking to address that gap.

42. The 2015 Asylum Law provides for new identification documents for refugees and asylum seekers[16]. However, the regulation introducing the new identity documents has not

[16] The law on the right to asylum and refugee status, art. 35, reads: "A refugee has the right, under the

been finalized and the Migration and Foreigners Service has suspended issuance of documentation for those who have applied for asylum since the entry into force of the new Law. The right to work is not recognized for asylum seekers. As a result, they have no choice but to engage in informal labour for their basic subsistence. In addition, since the adoption of Regulation No. 273/13 in August 2013 prohibiting the grating of the mandatory business licence to refugees, their means of becoming economically self-sufficient has been restricted, impeding them from finding durable solutions. The authorities must take the necessary steps to ensure that asylum seekers have easy access to the labour market and must remove the discriminatory provisions that prohibit refugees from owning and operating businesses.

43. The complicated and lengthy asylum procedure, the restrictions on the freedom of movement, the lack of availability of the required documentation and the denial of the right to work or set up a business encourage many potential refugees not to register as asylum seekers. That may result in violations of the principle of non-refoulement.

44. The central aim of the 2015 Asylum Law is to prevent the abusive use of the asylum process by those who wish to enter the country by deceitful means. It thus introduces a policy of mandatory detention for asylum seekers, which violates the international law principle according to which detention should always be a measure of last resort, individually justified, and for the shortest possible duration. Crucially, it deters refugees from seeking international protection in order to avoid detention.

45. Through its reservation to article 26 of the 1951 Convention, and as enshrined in article 5 of the Law on the Legal Regime of Foreign Citizens, Angola reserves the right to restrict the freedom of movement of foreigners, for considerations of national or international order. The 2015 Asylum Law further curtails the freedom of movement of asylum seekers. Even for asylum seekers who have the required documents, there is a practice of restricting their freedom of movement within Angola.[17] The Special Rapporteur was informed that in practice, while refugees and asylum seekers are not under an obligatory encampment policy, the reservation means that refugees are prohibited from settling in or having access to areas of particular economic interest, such as the diamond mining areas. Freedom of movement could further be impeded by lack of documentation. Even for asylum seekers who have the required documents, the Migration and Foreigners Service has developed a practice of restricting their freedom of movement if they intend to travel to other provinces in Angola.

B. Documentation and birth registration

46. A large number of asylum seekers and many refugees living in Angola, particularly those residing outside Luanda, are still undocumented. Many police and immigration officers are unaware or suspicious of undocumented aliens, and asylum seekers may face detention even if they present an attestation proving that their asylum application is pending before the Migration and Foreigners Service. In addition, due to the poor quality of the documentation for refugees and asylum seekers, they often have difficulties accessing public services and employment, hampering their efforts towards local integration and self-reliance. The poor quality has also led to many cases of falsifications of refugee cards and asylum seekers' certificates, and the police have in turn adopted a regular practice of arresting and detaining foreigners until the veracity of their documentation can be confirmed. That creates significant protection risks for asylum seekers and refugees who may be reluctant to approach government authorities for fear of arrest and detention.

1951 Convention, to be issued by the migration authority with an identification document certifying his or her status, with high security features, in line with the model adopted by way of regulation". See also art. 11: "and issues in favour of the asylum seeker a declaration certifying his or her application for asylum, in accordance with the model approved by regulation."

[17] Under the previous law, the Immigration Services would issue a travel document (guia de marcha) authorizing the asylum seeker to travel from the province of residency to the province of intended destination.

47. In 2012, the Migration and Foreigners Service, with the support of UNHCR, initiated a nationwide registration campaign for refugees and asylum seekers. Full registration would have been instrumental in enhancing the protection of refugees and asylum seekers in the country. However, due to technical problems, the registration efforts were suspended. Consequently, data on asylum seekers and refugees also remains unavailable.

48. The new identification documents for refugees and asylum seekers provided for under the 2015 Asylum Law should include higher security features and therefore reduce the risks of detention. However, given that the Ministry of the Interior had not finalized the regulation introducing the new identification documents and the Migration and Foreigners Service had suspended issuance of identification documents for those who had applied for asylum since the entry into force of Law 10/15, at the time of the Special Rapporteur's visit, refugees and asylum seekers could not obtain any identification documents whatsoever.

49. The Special Rapporteur was informed that refugees and asylum seekers are not covered by Presidential Decree No 80/13 of 5 September 2013, under which late birth registration for children over the age of 5 is now free of charge for Angolan nationals. Furthermore, pursuant to an administrative instruction issued by the Ministry of Justice (Circular de Execução Permanente) issued in May 2011, issuance of birth certificates to children born of foreigners, including children of refugees and asylum seekers, has been suspended until the adoption of the new nationality law. Consequently, many foreigners have been unable to register their children and obtain birth certificates, depriving them from access to a wide range of rights. Moreover, when they are provided, the birth certificates indicate that the parents are foreigners, and many employers, civil servants and other service providers are using that information to discriminate against migrants.

50. Access to a legal identity is a fundamental right. Birth registration is essential in order to protect migrant children and prevent statelessness. Failure to document a person's legal existence prevents the effective enjoyment of a wide range of human rights, including access to education and health care.

C. Intimidation or harassment by law enforcement officials

51. The Special Rapporteur was informed that undocumented migrants, asylum seekers and refugees are often victims of harassment and intimidation by police officers. Additionally, the police carry out operations in artisanal diamond mines, informal markets, residential areas, shops, streets, churches and mosques, in search of undocumented migrants, often going door to door. Those operations are often marred by violence, threats, intimidation, extortion and the destruction of valid identity documentation. Furthermore, migrants and asylum seekers, including pregnant women and children, are regularly arrested and detained in large numbers without access to legal information or assistance, and police officers use those occasions as an opportunity to extort bribes from undocumented migrants. Those who defend the rights of undocumented migrants have also been intimidated by the police.

D. Collective expulsions

52. The Special Rapporteur was concerned about the impact of collective expulsions of undocumented migrants. He was informed that, at the border with the Democratic Republic of the Congo, in Dondo, deportations are often implemented on the day of arrest. That does not give migrants an opportunity to apply for a judicial remedy.

53. Of particular concern is the impact that has on the commitment of Angola to the principle of non-refoulement of asylum seekers and refugees. Articles 54 and 3 (z) of the Law on Refugee Status prohibits the expulsion of refugees and asylum seekers from Angola, except for reasons of national security or public order, for having committed a fraud that resulted in the recognition of refugee status or for having committed an excludable act. In spite of that, the Special Rapporteur remains concerned that the principle

of non-refoulement is being eroded, considering the sharp increase in immigration arrests of migrants and refugees, and the difficulties they experience in gaining access, once detained, to legal representation, civil society organizations or international organizations. The Special Rapporteur urges the Government to implement oversight mechanisms that will allow it to ensure the fulfilment of the principle of non-refoulement.

E. Bilateral agreements

54. The Special Rapporteur commends Angola for having joined the Community of Portuguese-speaking Countries and can see the benefits of advancing in that Community. The Special Rapporteur observes that it is important to have additional arrangements that ensure that the preference for "highly skilled" labour is not implemented to the detriment of the human rights of "low-wage" migrant workers.

V. Detention

55. Migrants are arrested under suspicion of irregular entry or stay, often in spite of the documents presented, and, if necessary, taken to a detention centre while their documents are verified or arrangements relative to their expulsion are being finalized.

56. Mandatory detention of undocumented migrants and asylum seekers is neither a legitimate nor an effective tool for deterring undocumented migration and instead has the opposite effect of driving them further underground.

57. The Special Rapporteur expresses his regret that, on the day that he visited the detention centre in Cabinda, there were no migrants present and he was therefore unable to make a proper assessment of how the detention centre works. The Special Rapporteur was informed by government officials that migrants are kept there for only up to 12 hours. In the Trinta detention centre, the Special Rapporteur met with only five detainees, when the capacity is of over 500. He was informed that many migrant detainees had been released prior to his visit.

58. The Special Rapporteur was informed that arrested migrants may be subjected to harsh, overcrowded and unsanitary detention conditions. There is little access to basic hygiene products such as soap or sanitary napkins. Detainees have little privacy and seem to be allowed access to telephones only in order to obtain bribery money from family and friends. Crucially, they do not have access to justice. They receive little legal information, have difficulty accessing lawyers and have no access to legal aid. Detention is indefinite and ends only upon the expulsion of the undocumented migrant, the verification of documentation, which is a lengthy process, or release after payment of a bribe.

59. In the Trinta detention centre, detainees are kept in large groups in different rooms, one of which is allocated for women only. Movement out of the rooms is restricted to meal times. Young children are kept with their mother and older male children are kept with the men. Additionally, detainees suffer from harassment, degrading treatment and physical violence and lawyers trying to defend migrants are occasionally intimidated.

60. The detention of migrants is not subject to independent monitoring and takes place without prior authorization from a judicial body. Investigations conducted by the Attorney General to review the legality of detention are usually extremely lengthy. Furthermore, detainees are sometimes denied contact with the outside world, including legal assistance.

61. The Special Rapporteur received information that children are being detained. As stated by the Committee on the Rights of the Child, children should always be treated as children first and foremost, and the principle of the best interests of the child should always guide all decisions regarding children, whatever their administrative status and circumstances. Detention can never be in the best interest of a child and children should never be detained for reasons relating to their migratory status or that of their parents. Children and families with children should always benefit from alternatives to detention.

VI. Cross-cutting concerns

A. Labour exploitation

62. The Special Rapporteur was informed about the deplorable working conditions in the artisanal diamond mining sector. Migrants working in that sector are often exploited by their employers. Due to the informal nature of the work, the remoteness of the mines and resource constraints, the Government is unable to monitor and protect migrant workers from exploitation.

63. Many migrant women work as domestic workers. However, labour inspections are not carried out in private households. That leaves domestic workers unprotected and therefore vulnerable to abuse and exploitation.

64. Irregular migrants also work in small businesses or in informal work as street vendors. Such workplaces are monitored by government labour inspectors who carry out their work alongside the Migration and Foreigners Service. Irregular migrants found working are arrested, detained and face deportation. Consequently, migrants are reluctant to report exploitation or publicly protest or mobilize. The Special Rapporteur was informed that migrants often resort to bribing law enforcement officials in order to avoid arrest.

65. Migrants are at a heightened risk of exploitation and abuse in the workplace because of several factors: unfamiliarity with the language, their rights at work and national labour and migration laws; limited or denied access to legal systems; dependence on the job and employer due to migration-related debt; precarious legal status; and reliance by family members on remittances sent back home by the migrant. Those factors are amplified by the discrimination and xenophobia that migrants increasingly face in Angola.

B. Xenophobic and discriminatory acts

66. Undocumented migrants and their children suffer discrimination because of inadequate access to basic education, housing and health care. In addition, migrants face a constant outpouring of negative rhetoric, which is currently used extensively in relation to migrants and which equates all undocumented migrants to criminals and religious extremists.

67. Major cultural differences between Angolans and their West African counterparts have resulted in a negative image of people of the Muslim faith. The Special Rapporteur received information indicating that the Government is yet to publicly respond to help quell the concerns of its citizens about practising Muslims and the need to embrace diversity within society. The Special Rapporteur received information that, in some instances, it is public officials who use negative language when referring to migrants and incite fear of those of Muslim faith.

C. Access to justice

68. Migrants have difficulty accessing complaint mechanisms, partly because of a lack of information and legal representation, and partly because they fear being immediately detained and deported.

69. Migrants in detention are not given prompt access to a competent lawyer through an accessible legal aid system. The Special Rapporteur was concerned at reports that undocumented migrants may be subjected to detention without recourse to a court to pronounce on the legality of the detention.

70. Migrants in detention are not given prompt access to a competent interpreter, free of charge, if needed.

71. Migrants and people who assist them, such as lawyers, civil society organizations and international organizations such as UNHCR, often lack information on procedures and practices in the migration and protection proceedings. Increased effort must be made to give migrants access to relevant information in real time.

72. More efforts are needed to provide migrants with effective access to justice.

73. The Special Rapporteur noted the need for more effective employer sanctions, as well as more effective investigation and prosecution for offences by employers under the Labour Law. In that respect, he regrets the low number of court cases that have been brought against abusive employers.

VII. Conclusions and recommendations

74. **The Special Rapporteur noted that there is a dearth of national data relating to migration, especially on irregular migration and the informal sector. Such a severe lack of information hinders thorough analysis during a country visit and is an obstacle for Angola to sufficiently protect the human rights of migrants. The Special Rapporteur was informed that, where qualitative or quantitative data do exist, they remain difficult to access publicly. The Special Rapporteur strongly recommends that the Angolan authorities establish a comprehensive migration strategy that takes into account all aspects of migration and fosters regular status for most migrants through organizing and facilitating mobility, rather than trying to resist it. The new framework should be firmly human rights-based and should establish mechanisms empowering all migrants to properly defend their rights, with the support of civil society.**

75. **A sustainable human rights environment requires a vibrant civil society, including independent unions. A strong civil society, with experience and expertise in how human rights are protected and promoted on the ground, constitutes an essential alert mechanism. Many of the representatives of civil society that the Special Rapporteur met either vehemently presented "illegal migrants" as a threat, or were utterly silent and unsure as to why they were meeting with the Special Rapporteur. Migrants' rights cannot be effectively protected and promoted if civil society is stifled or under the authorities' influence.**

76. **The Special Rapporteur urges the Angolan authorities to provide the space necessary for civil society to continue to advocate for migrant rights and contribute to policies and practices affecting the human rights of migrants, in order to foster a healthy public debate on the issue.**

77. **The Special Rapporteur recommends that the Angolan authorities take the action detailed below.**

A. Normative and institutional framework for the protection of the human rights of migrants

78. **Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

79. **Ratify the relevant ILO Conventions, including the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Domestic Workers Convention, 2011 (No. 189) and the Private Employment Agencies Convention, 1997 (No. 181) and consider seeking technical assistance from ILO to ensure that Angolan legislation and practice are in line with those Conventions.**

80. **Withdraw the reservation to article 26 of the 1951 Convention and recognize freedom of movement for all foreigners, including asylum seekers and refugees, with only very restrictively delineated and individually justified exceptions.**

81. **Establish a fully independent national human rights institution, compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and offering a proper complaint mechanism, which would enhance the protection of the human rights of all in Angola, including migrants.**

82. **Ratify the Optional Protocol to the Convention against Torture and establish a national preventive mechanism to undertake regular unannounced visits to all places of deprivation of liberty in Angola, including migrant detention centres.**

83. **Develop bilateral mobility agreements with neighbouring countries, such as the one that has been concluded with Namibia. In the absence of advancing on mobility provisions, such bilateral mobility agreements, which would include human rights safeguards, would allow for the regularization of migrants, the portability of social benefits between member States, and the protection of their rights.**

84. **Develop migration and mobility agreements, initially with neighbouring countries, which provide a much-needed labour force in the mining and construction industries and other forms of low-wage labour.**

85. **Conduct ex ante and ex post human rights impact assessments when considering trade or mobility agreements and their utility in identifying issues of concern to migrants.**

B. Border management

86. **Request the Commission for Migration Policy, which was set up to develop a response to growing migration trends in Angola, to focus on developing a comprehensive human rights-based migration strategy covering all aspects of the governance of migration into Angola. In developing the strategy, the Commission should focus not only on the benefits of migration in the development of the economy, but also ensure that the human rights and labour rights of migrants are fully respected.**

87. **Decriminalize undocumented migration, which, while constituting a violation of some administrative rules, is not and should never be considered a crime.**

88. **Expedite the registration of all asylum seekers living in Angola in order to quickly finalize and implement the regulation relating to the issuance of high-quality identification documentation for asylum seekers and refugees, which will improve access to public services and prevent arbitrary arrest and detention; and commit to issuing documents for asylum seekers and refugees in a timely manner.**

89. **Collaborate with UNHCR to monitor and protect refugees. Considering the number of asylum seekers and refugees in Angola and the protection challenges, including the implementation of the new Asylum Law of June 2015, UNHCR should not scale down but increase its protection capacity in Angola.**

90. **Establish the new institution responsible for refugee determination so that all asylum seekers and refugees can be registered and issued with high-quality identification documents in a timely manner.**

91. **Increase the capacity of the Migration and Foreigners Service Commission to enable it to swiftly issue the required identification documents to undocumented migrants, particularly those living in border areas.**

92. **Collaborate with civil society organizations and international organizations to raise awareness among documented and undocumented migrants about asylum and immigration procedures and how they can they can access and use that information.**

C. Detention

93. **Ensure that detention is used only as a measure of last resort and for as short a period as possible, and continue developing alternatives to detention.**

94. **Ensure that detainees are provided with the possibility to contact their family, their consular authorities, UNHCR, civil society organizations and a lawyer. Detainees must be allowed to keep their mobile telephones.**

95. **Ensure that civil society organizations and international organizations are able to independently monitor, without restriction, all places where migrants are detained.**

96. **Provide appropriate detention conditions and ensure that all detained migrants have easy access to a means of contacting their family, consular services and a competent lawyer, whose services should be free of charge if necessary, an interpreter, and that they have the right to promptly challenge their detention.**

97. **Adhere to the Standard Minimum Rules for the Treatment of Prisoners, which apply to all categories of prisoners, both criminal and those imprisoned under any other non-criminal process, which set out minimum standards for, inter alia, personal hygiene, clothing, bedding, food, exercise, access to communication with the outside world and medical services.**

98. **Develop alternatives to detention for children and families with children, as the administrative detention of children for immigration purposes can never be in their best interest.**

99. **Ensure that all detained migrants have access to proper medical care, interpreters, adequate food and clothes, hygienic conditions, adequate space to move around and access to outdoor exercise.**

100. **Systematically inform detained migrants in writing, in a language they understand, of the reason for their detention, its duration, their right to have access to a lawyer, their right to promptly challenge their detention and their right to seek asylum.**

D. Access to justice

101. **Swiftly investigate reports of law enforcement officials who bribe, confiscate property, use unnecessary force to arrest, detain and deport irregular migrants and who physically abuse them. Those prosecuted and condemned should face stiff sanctions.**

102. **Establish programmes that facilitate access to justice for migrants by providing adequate information about protection options available, simplifying judicial procedures, establishing mechanisms for effectively reviewing the necessity of any detention, and providing free or affordable quality legal representation and quality interpretation to migrants for all the procedures they need to undergo.**

103. **Effectively implement existing legislation, including by providing quality legal representation, prosecuting perpetrators of violations and imposing meaningful sanctions on entities and individuals who violate migrants' rights.**

104. **Ensure full and proper access to justice for all detainees, including a more accountable system for lodging complaints within detention and reception centres.**

105. **Ensure that appeal proceedings are based on the merits and validation of detention.**

106. **Guarantee fully the right to free legal assistance in expulsion, detention and asylum procedures to all migrants, refugees and asylum seekers in primary legislation, and ensure it is implemented in practice.**

107. **Provide human rights training to all law enforcement officials and civil servants who come into contact with migrants.**

108. **Investigate allegations of bribery, confiscation of property, physical abuse, intimidation, torture, ill-treatment and harassment of migrants by law enforcement officials, and provide appropriate sanctions for perpetrators.**

109. **Create a strong and effective labour inspection system, with more labour inspectors who are properly trained on human rights and labour standards. Labour inspectors should monitor the enforcement of labour laws, including by interviewing migrant workers, reviewing their contracts, ensuring that they are allowed to keep their passports, and that they are issued with identity documents and are paid on time and in full.**

110. **Reinforce the capacity of trade unions to defend the labour rights and human rights of migrant workers, and foster a vibrant civil society that can contribute experience and expertise to a healthy public debate on migration policy and practice.**

111. **Strengthen the mandate of the Office of the Ombudsperson in relation to the monitoring of migrants' rights.**

E. Cross-cutting concerns

112. **Extend the free birth registration campaign to cover all foreigners born in Angola, including undocumented migrants and refugees, in order to ensure that they are guaranteed access to economic, social and cultural rights without discrimination.**

113. **Take all appropriate and effective measures, including the adoption of policies and programmes under its comprehensive migration strategy, to combat and eliminate discrimination against migrants, and fight negative perceptions of migrants.**

114. **Develop campaigns and effective enforcement of laws prohibiting racist and xenophobic acts, hate speech and racially motivated violence against migrants and asylum seekers. Ensure that perpetrators of such acts are prosecuted and punished, and that appropriate compensation is awarded to the victims.**

115. **Avoid criminalization of irregular migrants in language, policies and practice, and refrain from using incorrect terminology such as "illegal migrant".**

116. **Strengthen civil society so that it can better advocate for migrant rights and contribute to policies and practices affecting the human rights of migrants, in order to foster a healthy public debate on that issue.**

117. **Consider seeking technical assistance from the Office of the United Nations High Commissioner for Human Rights in order to make sure Angolan legislation, policies and practice are in line with human rights treaties, and consider seeking assistance from ILO in terms of labour law, policies and practice.**

118. **Consider the inclusion of a human rights adviser in the office of the United Nations Development Programme in Angola.**